

March 21, 2013

Via e-Mail: ctakemoto@arb.ca.gov

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California Air Resources Board
P.O. Box 2815
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Re: Staff Draft Proposals for 2013 Amendments to the Aerosol Coatings and the Consumer Products Regulations – Reviewed at the February 26, 2013, Public Workshop

Dear Ms. Takemoto:

The Consumer Specialty Products Association (CSPA) appreciates this opportunity to review and comment on the ARB staff draft proposals for 2013 Amendments to the Aerosol Coatings and the Consumer Products Regulations that were distributed at the February 26, 2013, Public Workshop.¹ Numerous CSPA member companies manufacture and/or market consumer products, and are engaging in a review of the initial draft proposal to develop new VOC limits and other regulatory concepts.

CSPA is coordinating efforts with the American Coatings Association (ACA) in relation to the new limits, and with numerous other consumer product industry associations as it relates to some of the other initial draft concepts proposed to assure a consistent industry response. CSPA's goal is to assist ARB staff in assuring that the 2013 Amendments to the Aerosol Coatings and Consumer Products Regulations are both feasible and necessary.

These written comments supplement the oral comments made by CSPA, its members and allied consumer product industry associations at the Public Workshop on February 26, as well as the initial comments we submitted on October 10, 2012. In the following sections, we provide our initial comments on each of the proposals in the order that they appear in the two draft Proposed Amendments documents.

I. Proposed Amendments to the Regulation for Reducing Emissions from Consumer Products

A. Proposed Definitional Changes

CSPA supports the proposed changes to the definitions for Aerosol Adhesive, Artist's Solvent/Thinner, Fabric Protectant, Footwear or Leather Care Product, Lubricant, Anti-seize Lubricant, Dry Lubricant, Paint Thinners, Multi-purpose Solvent, and Rubber/Vinyl Protectant. The Fabric Protectant and Footwear or Leather Care Product definitions provide a clearer

¹ See <http://www.arb.ca.gov/consprod/regact/2013/2013ra.htm>.

interface between the Consumer Products Regulation and the Aerosol Coatings Regulation. It also remains important, however, that the definitions for Paint Thinners and Multi-purpose Solvents do not result in any products whose primary purpose is subject to other standards (or specialty products currently excluded from regulation) being further regulated in those categories.

Regarding the revised definition for Undercoating, CSPA supports the need for a clear interface between Undercoatings in this regulation and Flexible Coating in the Aerosol Coatings Regulation. It is important that no product be subject to both standards. However, the definition proposed would create inconsistencies with the many other state rules that use the current definition for Undercoating, and would result in many products being subject to different standards in California and those states. We urge that ARB adjust the modified definition as follows:

(149) “Undercoating” means any aerosol product designed and labeled ~~exclusively~~ to impart a protective, nonpaint layer to the undercarriage, trunk interior, and/or firewall of motor vehicles to prevent the formation of rust or to deaden sound. “Undercoating” includes, but is not limited to, rubberized, mastic, or asphaltic products. Aerosol products that may be used as an “Undercoating” but make claims they may be used to provide a flexible or protective coating to ~~additional~~ non-vehicular surfaces are “Flexible Coatings” as defined in section 94521(a).

CSPA supports the positions of the Personal Care Products Council (PCPC) regarding the various definitions relating to hair care products. We also support the positions of the American Coatings Association (ACA) regarding the changes to the exemption criteria for Paint Thinners for Industrial, Zinc and High-Temperature Coatings.

B. Revised Limits for Aerosol Adhesives

CSPA is willing to support the 40% limit for Web Spray Adhesive as well as the 30% limit for most Mist Spray Adhesives, despite the high cost that will be required to reformulate these products for very small emission reductions. However, we ask that a subcategory be created and provided a 55% VOC limit for Mist Spray Adhesives that are used exclusively for silk-screen printing. We recommend the following definition for the subcategory:

“Aerosol Mist Screen Printer’s Adhesive” means a product specifically designed and labeled exclusively to hold garments or fabric in place during the screen printing process.

The unique properties of this type of adhesive include quick tack, no transfer to garment or fabric, and long lasting tack so that the one application will work for 15 or more garments or pieces of fabric without having to re-apply. In some applications where the silkscreen ink is flash/heat cured, the adhesive must withstand the heat without releasing or transferring to the garment. There are only a few polymers that will work in this type of application that we know of and those polymers are not compatible with large quantities of acetone and methyl acetate.

CSPA is willing to support the inclusion of a GWP limit of 150 for the Mist Spray Adhesives and Web Spray Adhesives categories of Aerosol Adhesives with an effective date of 1 January 1, 2017, and a three-year sell-through.

C. New Limit for Aerosol Multi-Purpose Solvent and Paint Thinner

CSPA is willing to support the establishment of a 10% VOC limit for the aerosol form of Multi-Purpose Solvent and Paint Thinner. Once again, however, it is extremely important that this does not result in any products whose primary purpose is subject to other standards (or specialty products currently excluded from regulation) being further regulated in those categories.

CSPA is also willing to support the changes proposed to the Aromatic Compound Content Requirement to cover Aerosol Products in these two categories.

D. Modification of LVP-VOC Exemption for Multi-Purpose Solvent and Paint Thinner

CSPA continues to *strongly oppose* the modification now proposed under Section 94510(d) that would replace the LVP-VOC exemption criteria (vapor pressure below 0.1 mm Hg at 20°C) with testing per one section of Method 310 (does not volatilize at 110°C for one hour). Neither ARB nor the industry has adequate data to evaluate the impact of this change on current products, nor is there adequate data to determine whether or not the change would result in the VOC limits for these products becoming technologically and commercially infeasible.

ARB's Research Division is planning to spend \$600,000 to study the LVP-VOC issue, and the industry is planning to invest significant funding in a parallel research program to augment ARB's research. Until this research is completed, the necessity of any change to the LVP-VOC exemption criteria cannot be evaluated. CSPA strongly urges ARB to await the results of these important scientific studies before taking any action to make any change in this important exemption in the Consumer Product Regulation.

E. Application of the Most Restrictive Limit Provision to Paint Thinners and Multi-purpose Solvents

CSPA is willing to support the application of the Most Restrictive Limit provision to these two product categories. Once again, however, it is extremely important that this does not result in any products whose primary purpose is subject to other standards being subject to the regulatory standards for the Paint Thinner and Multi-purpose Solvent categories.

F. Revisions to Flammability Labeling Provision for Thinners and Multi-purpose Solvents

CSPA is willing to support the modifications to the Flammability Labeling provisions to clarify that product and company names and logos can be larger than the flammability warnings.

G. VOC Exemption for HFO-1234a

ARB reported in the February Workshop that a petition for exemption of HFO-1234a was being considered. We urge that ARB expedite this exemption and include it in the revised definition of VOC in the 2013 Amendments. We also urge that any other potential ingredient for Consumer Products that is being considered for exemption also be expedited if at all possible.

II. CSPA Recommendations for Additional 2013 Amendments to the Consumer Products Regulation

In a meeting with ARB staff after the February Workshop, we proposed four additional revisions aimed at clarifying the current Consumer Products Regulation or providing extension of time to comply with a difficult future effect standard. In the following sections, we will provide these recommendations.

A. Clarification of Manufacturer-Use Products versus Consumer Products

Compliance with the Consumer Products Regulation often requires that manufacturers determine whether a product is a Consumer Product subject to the regulation or a manufacturing-use-only product that is not subject to the regulation, and may therefore be subject to district or other regulations. This distinction is most clearly described in the definitions of Lubricants and Multi-purpose Degreasers. We therefore recommend that the language from those definitions become part of the general definition through its use in defining “Institutional Product”. We therefore recommend the following revision:

(83) “Institutional Product” or “Industrial and Institutional (I&I) Product” means a consumer product that is designed for use in the maintenance or operation of an establishment that: (A) manufactures, transports, or sells goods or commodities, or provides services for profit; or (B) is engaged in the nonprofit promotion of a particular public, educational, or charitable cause. “Establishments” include, but are not limited to, government agencies, factories, schools, hospitals, sanitariums, prisons, restaurants, hotels, stores, automobile service and parts centers, health clubs, theaters, or transportation companies. “Institutional Product” includes products sold in retail outlets or wholesale locations to non-manufacturing consumers. “Institutional Product” does not include household products and products that are ~~incorporated into or used exclusively in the manufacture or construction of the goods or commodities at the site of the establishment~~ sold exclusively (directly and/or by distributors) for use in establishments that manufacture or construct goods or commodities, and labeled for manufacturer use only.

In addition, we recommend that ARB Research Division create an Enforcement Advisory to document specific interpretations of this provision so that manufacturers and regulators can have a clearer understanding of the bright line between Consumer Products and non-Consumer Products.

B. Clarification of General-Purpose/Multipurpose versus Special Purpose Products

Similarly, compliance with the Consumer Products Regulation often requires that manufacturers determine whether a product is a “General-Purpose” or “Multi-purpose” product subject to a specific limit or provision, or is a specialty product subject to other defined specialty categories or that is excluded from regulation. We believe that this distinction could be clarified in several definitions as follows:

“General Purpose Cleaner” means a product labeled to clean a variety of soils from a variety of hard surfaces. “General Purpose Cleaner” includes, but is not limited to, products designed or labeled for general floor cleaning, kitchen, countertop, or sink cleaning, and cleaners designed or labeled to be used on a variety of hard surfaces such as stovetops, cooktops, or microwaves. “General Purpose Cleaner” does not include specialty cleaners labeled only for use on other specific soils or specific substrates.

“General Purpose Degreaser” means: any product labeled to remove or dissolve grease, grime, oil and other oil-based contaminants from a variety of substrates, including automotive or miscellaneous metallic parts. “General Purpose Degreaser” does not include “Adhesive Remover,” “Electrical Cleaner,” “Electronic Cleaner,” “Energized Electrical Cleaner,” “Engine Degreaser,” “General Purpose Cleaner,” “Metal Polish or Cleanser,” or “Oven or Grill Cleaner.” “General Purpose Degreaser” also does not include products used exclusively in “solvent cleaning tanks or related equipment,” or products that are (A) exclusively sold directly or through distributors to establishments which manufacture or construct goods or commodities; and (B) labeled exclusively for “use in the manufacturing process only.” “Solvent cleaning tanks or related equipment” includes, but is not limited to, cold cleaners, vapor degreasers, conveyORIZED degreasers, film cleaning machines, or products designed to clean miscellaneous metallic parts by immersion in a container. “General Degreaser Cleaner” does not include specialty degreasers labeled only for use on other specific soils or specific substrates.

“Multi-purpose Lubricant” means any lubricant designed or labeled for general purpose lubrication, or a lubricant labeled for use in a wide variety of applications. Products that meet the definition for “Anti-seize Lubricant,” “Cutting or Tapping Oil,” “Dry Lubricant,” “Firearm Lubricant,” “Gear, Chain, or Wire Lubricant,” “Penetrant,” “Rust Preventative or Rust Control Lubricant,” or “Silicone-based Multi-purpose Lubricant” are not “Multi-purpose Lubricants.” “Multi-purpose Lubricant” also does not include other specialty lubricants labeled solely for specific uses.

“Silicone-based Multi-purpose Lubricant” means any lubricant which is designed or labeled for general lubrication or for use in a wide variety of applications, in which lubricity is primarily provided through the use of silicone compounds including, but not limited to, polydimethylsiloxane. “Silicone-based Multi-purpose Lubricant” does not include lubricants labeled solely for specific uses.

In addition, here again, we recommend that ARB Research Division create an Enforcement Advisory to document specific interpretations of this provision so that

manufacturers and regulators can have a clearer understanding of the bright line between general purpose and specialty products.

C. Clarification That Multiple Dilutions Can Meet Different Categorical Limits

Allowing dilutable products to label different dilutions to meet different category VOC limits makes perfect sense—why require the product to be manufactured and labeled separately? The problem is that the regulation is not clear how to handle the Minimum Recommended Dilution and Most Restrictive Limit provisions when both apply. We recommend the following two revisions to clarify the issue:

(b) Products that are diluted prior to use

(1) Except for “Automotive Windshield Washer Fluid (Dilutable),” for consumer products for which the label, packaging, or accompanying literature specifically states that the product should be diluted with water or non-VOC solvent prior to use, the limits specified in subsection (a) shall apply to the product only after the minimum recommended dilution has taken place. For purposes of this subsection (b), “minimum recommended dilution” shall not include recommendations for incidental use of a concentrated product to deal with limited special applications such as hard-to-remove soils or stains. If differing use dilutions are provided for uses subject to differing product category limits, the “minimum recommended dilution” applies separately to each product category limit.

(a) Most Restrictive Limit.

(2) Notwithstanding the definition of “product category” in Section 94508, if anywhere on the container or packaging of any consumer product manufactured on or after January 1, 2007, *or any FIFRA-registered insecticide manufactured on or after January 1, 2008*, or on any sticker or label affixed thereto, any representation is made that the product may be used as, or is suitable for use as a consumer product for which a lower VOC limit is specified in Section 94509(a), then the lowest VOC limit shall apply. This requirement does not apply to general purpose cleaners and insecticide foggers. Dilutable products may nevertheless provide different recommended dilutions to meet each of the various limits that apply to each specific product category.

D. Extend the Effective Date for Multipurpose Lubricant 10% Limit

As determined in the ARB’s recent Technology Assessment for the 25% VOC limit for Multipurpose Lubricants, our members are having significant difficulties finding technology capable of meeting the 10% VOC limit that is schedule to become effective in 2015. We therefore recommend that the effective date for the new 10% VOC limit be extended five years as shown:

Multi-purpose Lubricant (excluding solid or semisolid products)	1/1/2003	50
	12/31/2013	25
	12/31/2015	10
	Technical Review 2014-17	

This modification would allow our members more time to discover technologies to meet this standard with technologically feasible products that are also commercially feasible.

III. Proposed Amendments to the Regulation for Reducing the Ozone Formed from Aerosol Coating Product Emissions

A. Applicability Statement and General Definition of Aerosol

CSPA is willing to support the applicability of this regulation to all products meeting the general definition of Aerosol Coating, but the provision must be clarified to assure that the numerous types of products being regulated (or excluded from regulation) under other ARB regulations (especially the Consumer Products Regulation and Antiperspirants and Deodorants Regulation) are not subject to this regulation as well just because they arguably meet the very broad definition of Aerosol Coating. We therefore urge that ARB add to the Aerosol Coating definition a statement that, "Aerosol Coating does not include products that have been defined as subject to the Consumer Products Regulation or the Antiperspirants and Deodorants Regulation."

B. Various Other Revisions to Definitions

CSPA supports the revisions to the definitions for Anti-static Product, and supports the positions on numerous other category definitions (new or revised) taken by the American Coatings Association. CSPA also supports the new definitions proposed for Lubricant, and various new and revised definitions for ingredient classification (Extended, Fragrance, Pigment, Plasticizer, Propellant and Resin). We also support the definition for Flexible Coating, but note that we believe that modifications are needed in the Undercoating definition in the Consumer Products Regulation. We support the proposed definition of Mold Release as well.

CSPA also supports the definition proposed for Impurity and the apparent intent to limit what impurities can be considered to be part of an intentionally added ingredient and not subject to separate MIRs. We believe that the regulation could be made clearer regarding just how impurities would be handled in calculating Product-Weighted Maximum Incremental Reactivities (PWMIRs) for specific products with specific ingredients and formulations. We are willing to assist ARB in developing clearer language in the regulation to describe this process.

CSPA does not, however, support the revised definition for Reactivity Limit, which now refers to the ozone formation of ingredients and eliminate any mention of PWMIR. The use of Reactivity Limit elsewhere in the regulation only makes sense if Reactivity Limit relates to the PWMIR limit to which various products are subject. We are willing to work with ARB to assure that the definition of this important term is consistent with its actual use in the regulation.

CSPA supports the revised definition for Vinyl/Fabric/Leather/Plastic/Polycarbonate Coatings, but also recommend that a clarification be added that the category "does not include products that have been defined as subject to the Consumer Products Regulation." A number of products regulated elsewhere could be interpreted to be included here as well.

C. Section 94522(a)(1) Provision to Comply with General Category Limit If No Specialty Limit Applies and Section 94522(b) on Specialty Limits

CSPA is willing to support these provisions, which make this rule very different from the Consumer Product Regulation. We would note, however, that these provisions do not address what to do if more than one General Category definition or more than one Specialty Product definition appears to apply.

D. Revised Limits for General Coatings and Specialty Coatings Categories

CSPA supports the positions being taken by the American Coatings Association regarding the revised VOC limits for Clear, Flat, Fluorescent, Metallic, Nonflat and Primer categories of General Coatings. We also support ACA positions on the new limits for Specialty Coatings categories that are set to avoid reformulations while translating the PWMIR Reactivity Limits to use the revised 2010 MIRs. CSPA members are carefully reviewing their Mold Release, Vinyl/Fabric/Leather/Plastic/Polycarbonate Coatings, and other aerosol coatings products to assure that all comply with the new limits. We also support ACA positions on the new limits for Specialty Coatings categories that will require reformulation (group A), as well as for the new limits that are set to avoid reformulations while translating the PWMIR reactivity limits to use the revised 2010 MIRs (group B).

CSPA proposes the 2010 Table of MIR values for both the current category limits and final future limits become effective and applicable on the Board adoption date of the proposed amendments. The 2010 table of MIR Values represents the most recent science on ozone formation and reactivity. It is appropriate to employ these values as soon as possible. Although some of the values for various chemicals have changed from the previous table, these chemicals are the same. The assignment of the new value in no way changes the actual ozone produced by the same chemical. Therefore, adopting the new values immediately will have no impact on air quality even when applied to the current category limits.

There is a period of time between the adoption and when the regulation becomes final and effective and another time period before the effective date of the newly proposed limits. No company will be able to simply switch over on that date. It will take all of the allotted time to reformulate and prepare products for the market. It is absolutely necessary that the new MIR values be available to use as soon as possible for taking new formulas to market. Also, existing formulas may require slight modifications before the new limits go into effect. Having two active tables of MIR values is unworkable and will lead to confusion and possible compliance issues.

In addition, ARB should specifically allow companies to comply early with these new limits using the new MIR values. In other words, once a product is reformulated to meet a new limit using the new MIR values, they should not still be required to comply with the current limit and MIR values prior to the effective date of the standard. Stating this explicitly in the rule will help assure that companies know that they can comply early without having to assure that their product also still complies with the old standard.

E. Section 94522(d) Prohibition of Alternative Control Plans (ACPs)

CSPA recommends that this provision be removed. While the current ACP regulation does not allow Aerosol Coatings, we believe that that should be changed, and believe that the ACP can be revised to handle Aerosol Coatings subject to Reactivity Limits just as it handles Consumer Products subject to mass-based percent VOC limits.

F. Sections 94522(e) on Sell-Through, 94522(f) on Chlorinated Solvent Restrictions, and 94522(g) on Ozone Depleting Compounds Restrictions

CSPA supports the revisions to these sections.

G. Sections 94522(j) on Assigning MIR Values and 94523(a) Exemptions

CSPA generally supports the proposed provisions here on how to assign MIRs to ingredients for calculating the PWMIRs of products for assessing compliance to specific Reactivity Limits. This section should also, however, more explicitly deal with Impurities. We recommend that it be explicitly stated that impurities below 1% are to be treated as part of the intentionally added ingredient and therefore subject to the MIR of that ingredient. This section must also propose a reasonable transition date for the use of these new MIR and PWMIR values. We are willing to work with ARB staff to determine what dates are appropriate.

CSPA is supportive of all of the exempted specialty products. Clarity would be improved if it were also stated here that products that have been defined as subject to the Consumer Products Regulation or the Antiperspirants and Deodorants Regulation are also exempted.

H. Section 94524(a) Most Restrictive Limit

CSPA members are seeking to engage in the exhaustive review needed to determine the potential impacts of applying this new Most Restrictive Limit provision. This is a major change to the regulation that may not be consistent with the more general and much less specific definitions in this regulation as compared to the Consumer Products Regulation. This provision could create great uncertainty for formulators regarding which limit applies, and could increase significantly the number of products that would need to be reformulated, and therefore increase the regulatory burdens without obtaining additional reduction credits. We recommend that ARB staff consider other approaches more consistent with the current regulation.

If this provision is retained, we urge ARB to remove consideration of the undefined term “sales or advertising literature.” Product classification should be based on the product label only. We are willing to work with ARB staff to determine how best to revise this provision to better handle the problems which it is meant to solve.

I. Sections 94524(b) Labeling Requirements and 94524(c) Reporting Requirements

CSPA supports the Labeling Requirements and Reporting Requirements proposed in these sections.

**J. Sections 94526 Test Methods and Compliance Verification and
94526(b)(4)(a) Hydrocarbon Solvent Fractions**

CSPA fully supports the 20-day deadline proposal for product data, replacing the current 10-day deadline, and await specific proposals in other areas in these sections. We also support the need for analytical methodology for compliance assurance, but we have not yet been able to assess the impacts of assessing compliance using Hydrocarbon Solvent Fractions and the MIRs included in the Table in products that are formulated for compliance using the Hydrocarbon Bins in the MIR table. Our industry needs to carefully review the revised ASTM methods that MLD staff will be using, and also carefully review the MIRs in Table 94526(b)(4)(a) to evaluate whether the enforcement methodology will closely approximate the MIR Bins used to formulate the complying products. This review could require extensive efforts among CSPA (and ACA) members.

IV. Summary and Conclusions

CSPA appreciates the opportunity to review and comment on the Staff Draft Proposals for 2013 Amendments. While we strongly object to some of the proposals, we will seek to work cooperatively to resolve our differences.

Sincerely,



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